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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,471	12/18/2000	Pascal Albert Emile Lefebvre	Q62150	9352

7590 02/09/2006

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EXAMINER

HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2668

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/737,471	LEFEBVRE ET AL.	
	Examiner	Art Unit	
	Clemence Han	2668	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Giroux et al. (US 6,963,538).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Giroux teaches a network status reporting method; for reporting in a communications network a network status information to a data source with an adaptive transmission rate in order to enable said data source to

adapt said transmission rate based on said network status information, said communications network further comprising at least one intermediate network node 24, and a data sink 12, wherein only said data sink 12 reports to said data source 11 on said network status information (S2 in Figure 3A) of said communications network in a neighbourhood around the data sink (S6 in Figure 3A), and wherein no intermediate network node reports to said data source on said network status information of said communication network (Column 6 Line 8-11).

Regarding claim 2, Giroux teaches a communications network comprising: at least one data source 11 with an adaptive transmission rate; at least one intermediate node 24; and at least one data sink 12, wherein said data source adapts said transmission rate on the basis of network status information (Column 6 Line 8-11), and wherein only said data sink is able to report said network status information (S2 in Figure 3A) of said communications network in a neighbourhood of the data sink to said data source (S6 in Figure 3A) and no intermediate node is able to report network status information to said data source (Column 6 Line 8-11).

Regarding claim 3, Giroux teaches said data sink 18 is a line termination in an access network of said communications network.

Regarding claim 4, Giroux teaches said data sink is a network termination 19 in an access network of said communications network.

Regarding claim 5, Giroux teaches said network status information is a capacity of a link 16 between a network termination 19 and a line termination 18 in said access network of said communications network (Column 5 Line 61-65).

Regarding claim 6, Giroux teaches the data source 11 adapted to be used in the communications network.

Regarding claim 7, Giroux teaches the data sink 12 adapted to be used in the communications network.

Regarding claim 8, Giroux teaches said data-source is adapted to request said data sink to report to said data source on said network status information of said communications network (Column 5 Line 59-62).

Regarding claim 9, Giroux teaches said data sink is adapted to regularly report to said data source on said network status information of said communications network (Column 6 Line 20-24).

Regarding claim 10, Giroux teaches a communications system comprising: a data source 11 with an adaptive transmission rate; a line termination element 18; a network termination element 19 connected to the line termination element 18 via a first network 16; and at least one intermediate node 24 connecting the data source to the line termination element via a second network 10; wherein the data source adapts the transmission rate on the basis of a network status reported by at least

one of the line termination element and the network termination element (Column 6 Line 8-11), and wherein the network status is determined based on a quality of signal of the first network only (S2 in Figure 3A).

Regarding claim 11, Giroux teaches the first network 16 is of a different type than the second network 10, and comprise a heterogeneous network system (Figure 1).

Regarding claim 12, Giroux teaches the line termination element and the network termination element negotiate a transmission rate for the first network (Column 5 Line 60 – Column 6 Line 4), and wherein one of the line termination element and the network termination element reports the network status only when the transmission rate in the first network is changed (Column 6 Line 20-37).

Regarding claim 13, Giroux teaches the network termination element detects an influence of environmental conditions on the transmission rate of the first network (Column 5 Line 17-20) and, based on the detected influence, the network termination element and the line termination element re-negotiate the transmission rate (Column 5 Line 60 – Column 6 Line 4).

Regarding claim 14, Giroux teaches the first network 16 comprises a digital subscriber line and wherein the second network comprises a frame relay network

(Column 8 Line 65), and wherein the network termination element 19 comprises a modem and the line termination element 18 comprises a multiplexer.

Regarding claim 15, Giroux teaches a network status reporting method comprising: a data sink 12 reporting to a data source 11 status information of a first communication network 16 connected to the data sink (Column 6 Line 8-11); at least one intermediate network node 24 transmitting said report in a second communication network 10 connected to the data source; and said data source adjusting transmission rate based on said received report (Column 6 Line 8-11), wherein only said data sink reports to said data source on said status of said first communications network (S2 in Figure 3A), and none of said at least one intermediate network node report to said data source on said network status of said second communications network near said at least one intermediate network node (Column 6 Line 8-11).

Regarding claim 16, Giroux teaches the network status information (S2 in Figure 3A) is information about the status of network segment 16 around the data sink 12; the network status information comprises a report about at least one of: congestion, radio-frequency interference, and weather condition in the network segment around the data sink, and the report is communicated to the data source (Column 6 Line 4-11).

Regarding claim 17, Giroux teaches the line termination 18 is a data sink.

Regarding claim 18, Giroux teaches the data sink 12 is connected to a modem 19 via the first communication network 16 and wherein said modem is connected to the data source 11 via the at least one intermediate network node 24 of the second communication network 10.

Regarding claim 19, Giroux teaches the second communication network is internet and wherein the first communication network is public switch telephone network (Column 1 Line 31-35).

Regarding claim 20, Giroux teaches the data sink 12 is connected to a network termination element 19 via the first communication network 16 and wherein said network termination element is connected to the data source 11 via the at least one intermediate network node 24 of the second communication network 10 and wherein the second communication network is internet (Column 1 Line 31-35).

Regarding claim 21, Giroux teaches the data sink 12 reports to the data source 11 the status information of the first communication network 16 connected to the data sink only when a change in status of the first communication network occurs (Column 6 Line 20-37).

Response to Arguments

3. Applicant's arguments with respect to claim 1-21 have been considered but are moot in view of the new ground(s) of rejection.

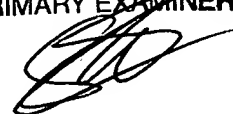
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

STEVEN NGUYEN
PRIMARY EXAMINER



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C.H.

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Examiner
Art Unit 2668